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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,990

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Thanhhung Le

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48418 7590 08/19/2008  
PARKS KNOWLTON LLC  
1117 PERIMETER CENTER WEST  
SUITE E402  
ATLANTA, GA 30338

EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

08/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,990	<b>Applicant(s)</b> LE ET AL.	
	<b>Examiner</b> Bryon P. Gehman	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-14, 16 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16 and 19-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 25, 2008 has been entered.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-14, 16 and 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, lines 2-3, the "respective" nature of the open side is indefinite, and would be clarified by inserting --each-- after "receptacle--". In line 9, the definition that the "second card is mated to said first card" is now not accurate because the two cards are not immediately adjacent one another, and it is considered contradictory to define non-adjacent portions as "mating"

In claim 16, line 2 and claim 23, line 10, it is unclear what comprises "a given" structure and it would appear --each-- in substitution would clear up the indefiniteness.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-14, 16 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niemiec et al. (6,411,567) in view of Eckernas et al. (5,072,430). Niemiec et al. disclose a package comprising a first card (202) comprising at least one protruding blister receptacle (204) each having a respective open side, a conductive metal foil protective layer (104) mated with the first card so that the protective layer spans each open side, and a second trace card (208, 210 and 212) or a second (208) and third card (212) comprising a closed cell with circuitry (210) with a dielectric overlay (208 and/or 212), wherein the second card is joined to the first card so that the dielectric overlay is mated to the protective layer and each blister receptacle is breachably aligned with a respective open side. Niemiec et al. does not disclose the conductive protective layer mated adjacent to the first card. However, Eckernas et al. disclose a similar package with circuitry wherein the positioning of a conductive protective layer (2) is immediately adjacent a first card (1). To modify Niemiec et al. reversing the location of the layers as claimed would entail a mere change in location of the working parts of the package and yield only predictable results. "[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond that person's skill." *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1740, 82 USPQ2d 1396 (2007). It has been held that a mere reversal of the essential

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working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ

167. To provide the dielectric overlay by printing on the second card appears to be conventional option within the level of ordinary skill in the art as referred to at column 5, lines 10-19, and so doing is not seen to distinguish any new or unexpected result from the disclosure of Niemiec et al..

As to claim 12, the cards (202 and 208-212) of Niemiec et al. are not themselves conductive.

As to claim 13, a blister receptacle is typically pliable.

As to claim 14, the package includes an area capable of receiving an electronic monitoring device (408) in communication with the circuitry.

As to claim 16, a portion of the circuitry of Niemiec et al. spans the closed cell.

As to claims 21 and 25, the disclosed dielectric overlay of Niemiec et al. exactly follows and covers the entire electronic circuitry as disclosed.

As to claim 22, in the proposed combination, the electronic circuitry is carried on a side of the second card, that side being distinguished as a circuitry side.

6. Claims 19-20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 11 and 23 above, and further in view of either one of Williams-Hartman (7,188,728) and Wharton et al. (5,172,812). Williams-Hartman and Wharton et al. each disclose a medication package comprising a first card (201; 16; respectively) comprising at least one open cell (202; 17; respectively), a second card (101; 11) comprising at least one protruding receptacle (102; 13) having an open side,

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each protruding receptacle matingly nested within one open cell, a third card (104; 14); comprising a first closed cell, mated to the second card so that the first closed cell spans each open side, and a fourth card (301; 22) comprising a second closed cell mated to the third card so that the second closed cell is breachably aligned with the first closed cell, the cards being non-conductive. To modify the medication package of the base combination employing multiple cards as taught by either one of Williams-Hartman and Wharton et al. would have been obvious in order to provide a more substantial and sturdier package as suggested by either one of Williams-Hartman and Wharton et al..

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 26 above, and further in view of Johnstone et al. (6,047,829). The previous combination does not disclose a locking tab. However, Johnstone et al. provide the feature of a locking tab (106 or 106 and 108) provided on a layered medicinal package and disposed at a free end of the package to releasably retain the package within an outer sleeve. To further provide the package combination with a locking tab as suggested by Johnstone would have been obvious in order to serve as a locking mechanism as suggested by Johnstone et al. (see column 4, lines 34-44).

8. Applicant's arguments filed July 25, 2008 have been fully considered but they are not persuasive in view of the new grounds of rejection. With respect to claims 11 and 23, while the employed Figures on applicant's arguments on page 10 demonstrate a different arrangement between Niemiec et al. and applicant's structure, claims 11 and

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23 are seen to distinguish an obvious reversal of parts from a relationship previously recognized in the field as shown by Eckernas et al..

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are medical blister packs provided with electronic circuitry.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Tuesday through Thursday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryon P. Gehman/  
Primary Examiner, Art Unit 3728

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG